

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING LIABILITY FOR A SPONSOR OF AN OFF-HIGHWAY VEHICLE ACTIVITY; AMENDING SECTION 23-2-822, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-2-822, MCA, is amended to read:

"23-2-822. Off-highway vehicle operator responsibilities -- nonliability of sponsors of off-highway vehicle activity. (1) An off-highway vehicle operator shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of off-highway vehicle use on public or private land and shall regulate personal conduct at all times so that injury to self or other persons or property that results from the risks inherent in the sport of off-highway vehicle operation is avoided.

(2) A sponsor of an off-highway vehicle activity is not liable for an injury to or the death of a participant engaged in an off-highway vehicle activity at the sponsor's event resulting from the inherent risks described in subsection (3).

~~(2)~~(3) Risks inherent in the sport of off-highway vehicle operation include variations in terrain, surface or subsurface conditions, crevices, ravines, streams, poor visibility, rocks, trees, other forms of forest growth or debris, and any other natural hazard, as well as intentional alterations not created specifically for off-highway vehicle activities but commonly found on public and private property, such as fenceposts, barbed wire, irrigation systems, and energy development and transfer systems.

~~(3)~~(4) An off-highway vehicle operator is responsible for:

(a) knowing the range of the operator's ability to navigate any slope, trail, or area for off-highway vehicle use within the limits of the operator's ability, taking into consideration the conditions;

(b) maintaining control of speed and course at all times while operating the off-highway vehicle;

(c) heeding all posted warnings; and

(d) refraining from acting in a manner that may cause or contribute to the injury of anyone.

(5) A sponsor of an off-highway vehicle activity owes a duty of reasonable care to off-highway vehicle

1 operators, exclusive of the inherent risks covered in subsection (3).

2 ~~(4)(6)~~ The provisions of this section do not affect a products liability cause of action based upon the
3 design or manufacture of off-highway equipment or products or safety equipment used incidental to the operation
4 of an off-highway vehicle.

5 (7) For the purposes of this section, the following definitions apply:

6 (a) "Off-highway vehicle activity" includes activity on public or private land but is not limited to an
7 off-highway vehicle show, race, competition, or training exercise, the testing or evaluation of an off-highway
8 vehicle, or a trip, hunt, or other excursion using an off-highway vehicle.

9 (b) "Sponsor of an off-highway vehicle activity" means an individual, group, partnership, or corporation,
10 whether operating for profit or not, that sponsors, organizes, or provides the venue for an off-highway vehicle
11 activity."

12
13 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

14 - END -